

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN RE: ) CASE NO. 17-46266-659  
KIMBERLY G. SEEMES, )  
Debtor. ) CHAPTER 13  
CAVALRY SPV I, LLC, ) Response Due: 4-16-2018  
Movant, ) Hearing Date: 4-23-2018  
vs. ) Hearing Time: 10:00 a.m.  
 ) Location: St. Louis, Missouri  
 ) Courtroom 7 North  
KIMBERLY G. SEEMES, Debtor, )  
BRIAN SEEMES, Co-Debtor, and )  
DIANA S. DAUGHERTY, Trustee, )  
Respondents. )

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY  
AND CO-DEBTOR STAY,  
AND NOTICE THEREOF**

Please take notice that the Motion for Relief from the Automatic Stay and Co-Debtor Stay filed by Cavalry SPV I, LLC, is set for hearing before the Honorable Kathy A. Surratt-States in the Thomas F. Eagleton United States Courthouse, 7<sup>th</sup> Floor North Courtroom, 111 S. Tenth Street, St. Louis, Missouri, on April 23, 2018 at 10:00 a.m.

**WARNING: THIS MOTION SEEKS AN ORDER THAT MAY  
ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD  
IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE  
DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST  
FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY.**

**YOU MUST FILE AND SERVICE YOUR RESPONSE BY APRIL 16, 2018.**

**YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. THE DATE IS SET OUT ABOVE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.**

COMES NOW Movant, Cavalry SPV I, LLC, pursuant to 11 U.S.C.

§ 362(d) and 11 U.S.C. §1301, and moves the Honorable Court for relief from automatic stay in effect under 11 U.S.C. § 362(a) and for relief from the co-debtor automatic stay in effect under 11 U.S.C. §1301(a). In support of its Motion, Movant states:

1. On September 13, 2017 ("Petition Date"), Debtor filed a voluntary petition for relief pursuant to Chapter 13, Title 11 of the United States Code.

2. Cavalry SPV I, LLC, is a secured creditor and party in interest herein, as assignee of Capital One.

3. Diana S. Daugherty ("Trustee") is the duly appointed trustee of Debtor's bankruptcy estate.

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157(b)(1) and (b)(2)(G), 11 U.S.C. §§ 362 and 1301, and Bankruptcy Rules 4001 and 9014. This is a "core" proceeding under 28 U.S.C. § 157 (b)(2)(G).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1409.

6. On or about November 6, 2015, Debtor Kimberly G. Seemes and Co-Debtor Brian Seemes obtained financing to purchase a 2014 Yamaha ATV, VIN 5Y4AJ40Y03A105242 ("ATV 1"). Attached as Exhibit A is a copy of the Missouri Department of Revenue Record Lookup Result, indicating that ATV 1 is owned by Debtor and Co-Debtor and showing a lien in favor of Capital One Auto Finance, along with a Notice of Lien Transfer to Movant.

7. On or about April 23, 2016, Debtor Kimberly G. Seemes and Co-Debtor Brian Seemes obtained financing to purchase a 2016 Yamaha ATV, VIN 5Y4AMA1Y3GA102861 (“ATV 2”). Attached as Exhibit B is a copy of the Missouri Department of Revenue Record Lookup Result, indicating that ATV 2 is owned by Debtor and Co-Debtor and showing a lien in favor of Capital One Auto Finance, along with a Notice of Lien Transfer to Movant.

8. Movant is the current owner and holder of the indebtedness and security interests in ATV 1 and ATV 2, as assignee of Capital One.

9. The amount of \$12,086.75 remains due from Debtor and Co-Debtor to Movant, per the proof of claim filed herein, secured by ATV 1 and ATV 2, with a secured claim of \$11,275.00 and unsecured of \$811.75.

10. Movant requests relief from the automatic stay to enforce its security interests in ATV 1 and ATV 2 for cause pursuant to 11 U.S.C. § 362(d)(1) because Debtor’s proposed Second Amended Chapter 13 Plan provides for surrender of the ATVs to Movant.

11. Movant requests relief from the co-debtor automatic stay pursuant to 11 U.S.C. § 1301(c)(3) because Movant’s interest would be irreparably harmed by continuation of the co-debtor stay.

12. Movant further requests waiver of the 14-day stay provision of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure.

WHEREFORE, Movant prays that this Honorable court enter an order granting relief from the automatic stay in effect under 11 U.S.C. § 362(a), and relief from the co-debtor automatic stay in effect under 11 U.S.C. §1301(a), to permit it to obtain

possession of and dispose of ATV 1 and ATV 2 in a commercially reasonable manner and seek recovery from the Co-Debtor, and providing for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

HANNA & VOLMERT, LLC

By Deborah Volmert

Deborah J. Volmert, #42091  
530 Fullerton Road, Suite A  
P.O. Box 464  
Belleville, Illinois 62222-0464  
Telephone: (618) 277-7670  
Facsimile: (618) 277-7674

Attorneys for Movant

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that true and accurate copies of the foregoing Motion for Relief from the Automatic Stay and Co-Debtor Stay were sent on the 26<sup>th</sup> day of March, 2018, to the following via electronic mail through the electronic court filing system of this Court:

Brent S. Westbrook, Attorney for Debtor

Diana S. Daugherty, Chapter 13 Trustee

And to the following by first class mail, postage pre-paid, on the 26<sup>th</sup> day of March, 2018:

Kimberly G. Seemes, 2925 Park Valley Drive, St. Peters, MO 63376

Brian Seemes, 2925 Park Valley Drive, St. Peters, MO 63376

Deborah Volmert

Missouri Department of Revenue  
PO Box 3355  
Jefferson City, MO 65105-3355

Hanna & VolmertLLC  
PO Box 464  
Belleville, MO 62222

**Record Lookup Results**

Year	Make	VIN/HIN
2014	YAMA	5Y4AJ40Y0EA105242

**Notice Of Lien**

**Owner Information**

Owner's Name SEEMES KIMBERLY & BRIAN  
Street Address 2925 KIMBERLY VALLEY  
City SAINT PETERS  
State MO  
Zip Code 63376

**Vehicle Information**

Year 2014  
Make YAMA  
VIN 5Y4AJ40Y0EA105242  
Vehicle Type Motor Vehicle  
Control Number 353245IU  
Previous Title Number  
Purchase Date 11/6/2015  
Receipt Date 11/10/2015

**Lienholder Information**

Lien Date 11/06/2015  
Lienholder Name CAPITAL ONE AUTO FIN  
Street Address PO BOX 660068  
City SACRAMENTO  
State CA  
Zip Code 95866

Subject to Future Advances No

Refinance or No Change Of Ownership No

**Notice Of Sale**

**Owner Information**

Owner's Name SEEMES KIMBERLY G  
Street Address 2925 PARK VALLEY DR  
City ST PETERS  
State MO  
Zip Code 63376  
Purchase Date 11/06/2015

**Vehicle Information**

*Exhibit A*

Pg 6 of 10  
Year 2014

Make YAMA

VIN 5Y4AJ40Y0EA105242

NOS Control Number 2099024E

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**No Title record was found.**

[Print Record](#)

(To be sent to the Department of Motor Vehicles of applicable State)



Capital One Services, LLC  
3800 Golf Road  
Rolling Meadows, IL 60008

**NOTICE OF LIEN TRANSFER – DO NOT DESTROY**

9/6/2017

KIMBERLY SEEMES  
BRIAN SEEMES  
REDACTED PARK VALLEY DR  
SAINT PETERS, MO 63376-7142

YEAR: 2014  
MAKE: UNKN MAKE  
MODEL: YFM550PER  
VIN: 5Y4AJ40Y0EA105242

Account ending in: \*\*\*\*\*0209

To whom it may concern:

The above referenced account has been sold and the lien held by Capital One has been reassigned to Cavalry SPV I, LLC as of the date of this letter. This letter shall serve as verification of the lien being released to Cavalry SPV I, LLC and no further interest is now held by Capital One.

Sincerely,

Timothy Rogers  
Titles Representative

Letter ID: AS17090100236

State of Illinois  
County of Cook

Signed and sworn to before me this 11<sup>th</sup> day of September, 2017 by Timothy Rogers.

(Signature of Notary)  
(Seal)





Pg 9 of 10  
Year 2016

Make YAMA

VIN 5Y4AMA1Y3GA102861

NOS Control Number 2670800E

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**No Title record was found.**

[Print Record](#)

(To be sent to the Department of Motor Vehicles of applicable State)



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